

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A

Case No.: SC03-1171

JUDGE, NO. 02-487

**RESPONDENT'S FIRST REQUESTS FOR ADMISSION TO THE
COMMISSION**

Respondent, Judge Gregory P. Holder (“Respondent”), by counsel and pursuant to Rule 1.370, Florida Rules of Civil Procedure, propound the following Requests for Admission numbered 1 through 51, to the Florida Judicial Qualifications Commission (“Commission”), to be answered under oath, and within thirty days, as provided by the Florida Rules of Civil Procedure.

Respondent certifies that Respondent’s First Requests for Admission to the Florida Judicial Qualifications Commission was prepared using WordPerfect, Times New Roman, 14-point font, and complies with the font requirement stated in Fla. R. App. P. 9.210(a)(2), and were served on September 23, 2003, by facsimile and United States Mail on: JQC Special Counsel, Charles P. Pillans, III, Esq., Bedell Ditmar DeVault Pillans & Coxe, P.A., The Bedell Building, 101 East Adams Street, Jacksonville, FL

32202; and to JQC General Counsel, Thomas C. MacDonald, Jr., 1904 Holly Lane, Tampa, FL 33629.

Respectfully submitted,

David B. Weinstein, Esq.
Florida Bar No.: 604410
Virginia Zock Houser, Esq.
Florida Bar No.: 0848859
BALES WEINSTEIN
P.O. Box 172179
Tampa, Florida 33674-0179
Telephone: (813) 224-9100
Telecopier: (813) 224-9109

-and-

Gregory W. Kehoe, Esq.
Florida Bar No.: 0486140
JAMES HOYER NEWCOMER
& SMILJANICH, P.A.
4830 W. Kennedy Blvd., Ste. 550
Tampa, Florida 33609

Attorneys for Respondent

I. DEFINITIONS AND INSTRUCTIONS

1. “Commission,” “you,” and/or “yours,” will refer to the Judicial Qualifications Commission, including any of its members, attorneys, employees, representatives, consultants, and agents and all other Persons acting or purporting to act on its behalf.
2. “Respondent,” will refer to Judge Gregory P. Holder.
3. “Inquiry,” will refer to the proceeding styled Inquiry Concerning a Judge, pending before the Florida Judicial Qualifications Commission and assigned Supreme Court Case No.: SC03-1171.
4. The term “Purported Holder Paper” will refer to the document attached as Exhibit “A” to the Notice of Formal Charges served by the Commission in this proceeding on July 16, 2003.
5. The term “Hoard Paper” will refer to the document submitted by E. David Hoard to the Air War College in September, 1995, and attached as Exhibit “B” to the Notice of Formal Charges served by the Commission in this proceeding on July 16, 2003.
6. “Knowledge” includes actual, imputed, constructive, and inquiry knowledge, awareness, perception, and/or notice.
7. The term “Person” will refer to and will include, without limitation and in the singular as well as in the plural, natural Persons, partnerships, joint ventures, corporations, limited liability entities, companies, firms, groups, associations, estates, trusts, and all other organizations and entities, unless the context specifically indicates otherwise. Any reference to a Person will include his, her, or its agents, assigns, attorneys, consultants, directors, officers, employees or any other authorized representative.
8. The term “Communications” will refer to and will include, without limitation and in the singular as well as in the plural, all conversations, telephone conversations, statements, discussions,

debates, arguments, discourses, colloquies, interviews, consultations, and every other kind of oral utterance.

9. The term “Document” refers to and will include, without limitation and in the singular as well as in the plural, any handwritten, sketched, painted, drawn, traced, illustrated, typed, printed, recorded, graphical, electronic, digital, analog, optical, and/or other depiction, delineation, portrayal reflection projection description reproduction, representation or presentation of information of any kind whatsoever, however created, depicted or stored (*e.g., on computer, disk, diskette, CD, tape, Zip®, Jaz®, hard, network or other drive; and/or by photographic, mechanical, digital, optical, electronic, or any other means*), of any type or description, including all drafts, originals, identical and non-identical copies (*in whole or in part*), and includes, without limitation: all memoranda, letters, postcards, facsimile messages, telex messages, telegrams, intra-office and interoffice Communications, electronic mail, correspondence, notes, pamphlets, diaries, records of every kind, tapes and other sound recordings, transcripts, contracts, agreements, books, reports, catalogs, financial statements, books of account, journals, ledgers, data processing cards, other data processing materials, data sheets, photographs, photostats, microfilm, videotapes, maps, directives, bulletins, circulars, notices, messages, tabulations, economic or statistical studies, surveys, statements, summaries, opinions, analyses, evaluations, diaries, lists, polls, transcripts, minutes, agendas, instructions, requests, cancelled checks, calendars, desk pads, appointment books, scrapbooks, notebooks, specifications, drawings, diagrams, sketches and writings, documents, and evidences of other Communications of every kind and character.
10. The term “relating to” or “relative to” means, in whole or in part, constituting, containing, embodying, reflecting, identifying, stating, referring to, dealing with, or in any way pertaining to.
11. The term "facts" will refer to and will include, without limitation and in the singular as well as in the plural, all

circumstances, occurrences, occasions, events, incidents, oral Communications, writings, electronic Communications, episodes, experiences, happenings, transactions, and all kinds of other affairs, matters, or things.

REQUESTS FOR ADMISSION

1. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, that the Purported Holder Paper is an authentic copy of the actual paper that Respondent submitted to the Air War College in January of 1998.

2. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel, who can testify, based on personal knowledge, that the Purported Holder Paper is an authentic copy of the actual paper that Respondent submitted to the Air War College in January 1998.

3. Admit that you have no knowledge of the existence of any affidavit in which the affiant has sworn that the Purported Holder Paper is an authentic copy of the actual paper that Respondent submitted to the Air War College in January of 1998.

4. Admit that you have no knowledge of the existence of any statement, oral or written, by any competent witness that identifies the Purported Holder Paper as an authentic copy of the actual paper that Respondent submitted to the Air War College in January of 1998.

5. Admit that the Commission has received a copy of the August 5, 2003 Affidavit of John Sebastian Vento, Esq., served on the Commission on August 25, 2003.

6. Admit that the Commission has spoken to Mr. Vento regarding the matters at issue in these proceedings.

7. Admit that Mr. Vento has sworn under oath that “[he does] not believe that the paper [he] received from Judge Holder and read in 1998 was as sloppy and as poorly written as the alleged Holder paper. The 1998 paper was not as bad as the alleged Holder paper.”

8. Admit that the Commission has received a copy of the August 8, 2003 Affidavit of Lt. Col. James C. Russick, USAFR, filed in the Air Force proceedings and served on the Commission on August 25, 2003.

9. Admit that the Commission has spoken to Lt. Col. Russick regarding the matters at issue in these proceedings.

10. Admit that Lt. Col. Russick has sworn under oath that he “can unequivocally state that [he] had never before read the alleged Holder AWC paper. The paper alleged to be Col. Holder’s is not the same one that [he] read in 1998.”

11. Admit that the Commission has received a copy of the August 31, 2003 Affidavit of Ms. Lorraine Nasco.

12. Admit that the Commission has a copy of the April 3, 2003 Affidavit that Ms. Nasco submitted in connection with the Air Force investigation of this matter.

13. Admit that the Commission has spoken to Ms. Nasco regarding the matters at issue in these proceedings.

14. Admit that Ms. Nasco has sworn under oath on August 31, 2003 that the Purported Holder paper “does not appear to be the paper I typed for Judge Holder.”

15. Admit that Ms. Nasco has sworn under oath on April 3, 2003 that she “does not recognize” the Purported Holder paper.

16. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, that the Purported Holder Paper could not have been fabricated through the use of existing computer and/or other technology or techniques.

17. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel, who can testify based on personal knowledge that the Purported Holder Paper could not have been fabricated through the use of existing computer and other technology or techniques.

18. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, that the Purported Holder Paper could not have been written by someone other than Respondent.

19. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel who can testify, based on personal knowledge, that the Purported Holder paper could not have been written by someone other than Respondent.

20. Admit that the Hoard Paper has an Air War College date stamp on its cover page.

21. Admit that the Purported Holder Paper does not have an Air War College date stamp on its cover page.

22. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, that the Purported Holder Paper was ever actually received by the Air War College.

23. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel, who can testify, based on personal knowledge, that the Purported Holder Paper was ever actually received by the Air War College.

24. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, that the actual paper that Respondent submitted to the Air War College in January of 1998 did not bear a date stamp affixed by the Air War College when it was returned to Respondent by the Air War College.

25. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel, who can testify, based on personal knowledge, that the actual paper that Respondent submitted to the Air War College in January of 1998 did not bear a date stamp affixed by the Air War College when it was returned to Respondent by the Air War College.

26. Admit that Lt. Col. William O. Howe, Jr., was the Air Force officer who graded the papers submitted by students in the Air War College seminar that Respondent attended at MacDill Air Force Base.

27. Admit that the Commission has a copy of the March 10, 2003, Affidavit that Lt. Col. Howe submitted in connection with the Air Force investigation of this matter.

28. Admit that the Commission has a copy of the August 20, 2003, Affidavit of Lt. Col. Howe filed in these proceedings on or about September 11, 2003.

29. Admit that the Commission has spoken to Lt. Col. Howe regarding the matters at issue in these proceedings.

30. Admit that the standard procedure of Lt. Col. Howe was to write a personal comment to each student on the last page of each Air War College paper that he graded.

31. Admit that the last page of the Purported Holder Paper does not contain any personal comment to the student which was written by Lt. Col. Howe.

32. Admit that the stated standard procedure of Lt. Col. Howe was to write a brief notation of the student's final grade on the last page of Air War College papers that he graded.

33. Admit that the last page of the Purported Holder Paper does not contain a brief notation of the student's final grade.

34. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, that the handwritten comments of the grader that appear throughout the Purported Holder Paper, are actually the comments that Lt. Col. Howe placed on the paper submitted by Respondent to the Air War College in January of 1998.

35. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel who can testify, based on personal knowledge, that the handwritten comments of the grader that appear throughout the Purported Holder Paper, are actually the comments that Lt. Col. Howe placed on the paper submitted by Respondent to the Air War College in January of 1998.

36. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, regarding the identity of the person(s) who anonymously provided the Purported Holder Paper to Jeffrey Del Fuoco.

37. Admit that the Commission has no witness whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel who can testify, based on personal knowledge, regarding the identity of the person(s) who anonymously provided the Purported Holder Paper to Jeffrey Del Fuoco.

38. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, regarding how or from where the person(s) who provided the Hoard Paper to Jeffrey Del Fuoco obtained the Hoard Paper.

39. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel who can testify, based on personal knowledge, regarding how or from where the person(s) who provided the Hoard Paper to Jeffrey Del Fuoco obtained the Hoard Paper.

40. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for November 14, 2003, who can testify, based on personal knowledge, regarding how or from where the person(s) who provided the Purported Holder Paper to Jeffrey Del Fuoco obtained the Purported Holder Paper.

41. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel who can testify, based on personal knowledge, regarding how or from where the person(s) who provided the Purported Holder Paper to Jeffrey Del Fuoco obtained the Purported Holder Paper.

42. Admit that you have no knowledge of the existence of any version of the Purported Holder Paper other than the one that was anonymously provided to Jeffrey Del Fuoco.

43. Admit that you have no knowledge of the existence of any copies of the Purported Holder Paper other than copies made from the Purported Holder Paper, or a copy thereof, after it was anonymously provided to Jeffrey Del Fuoco.

44. Admit that the Commission has no witness, whose testimony the Commission can offer at the hearing before the Investigative Panel on the Order to Show Cause now scheduled for the November 14, 2003, who can properly establish a chain of custody for the Purported Holder Paper.

45. Admit that the Commission has no witness, whose testimony the Commission can offer at the Formal Evidentiary Hearing before the Hearing Panel who can properly establish a chain of custody for the Purported Holder Paper.

46. Admit that you do not have the envelope in which the Purported Holder Paper and the Hoard Paper were anonymously slipped under the door of the office of Jeffrey Del Fuoco, as described in his March 10, 2003 Affidavit to the Air Force.

47. Admit that you have no knowledge of the whereabouts of the envelope in which the Purported Holder Paper and the Hoard Paper were anonymously slipped under the door of the office of Jeffrey Del Fuoco, as described in his March 10, 2003 Affidavit to the Air Force.

48. Admit that you do not have the original or a copy of the anonymous typewritten note to Jeffrey Del Fuoco which accompanied the Purported Holder Paper and the Hoard Paper when they were anonymously slipped under the door of the office of Jeffrey Del Fuoco, as described in his March 10, 2003 Affidavit to the Air Force.

49. Admit that you have no knowledge of the whereabouts of the original or a copy of the anonymous typewritten note which accompanied the Purported Holder Paper and the Hoard Paper when they were anonymously slipped under the door of the office of Jeffrey Del Fuoco, as described in his March 10, 2003 Affidavit to the Air Force.

50. Admit that the Order to Show Cause Hearing before the Investigative Panel must be conducted in accordance with the Florida Evidence Code.

51. Admit that the Formal Evidentiary Hearing before the Hearing Panel must be conducted in accordance with the Florida Evidence Code.